

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Kenneth F. Ray, #275881,)	
)	
Petitioner,)	C.A. No. 8:05-00763-HMH-BHH
)	
vs.)	OPINION & ORDER
)	
Jon Ozmint, Director of SCDC;)	
State of South Carolina; and Henry)	
McMaster, Attorney General for South)	
Carolina,)	
)	
Respondents.)	

This matter is before the court with the Report and Recommendation of the United States Magistrate Judge, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 DSC.¹ Kenneth F. Ray (“Ray”) is a pro se state prisoner seeking habeas corpus relief pursuant to 28 U.S.C. § 2254.

On February 28, 2005, Ray filed the instant § 2254 petition.² On April 13, 2005, Jon Ozmint, the State of South Carolina and Henry McMaster (collectively “Respondents”) filed a motion for summary judgment. On July 15, 2005, Ray filed a response in opposition to the Respondents’ motion. In addition, Ray filed a motion for summary judgment on June 21,

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *See Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

² *See Houston v. Lack*, 487 U.S. 266 (1988).

2005. Ray filed a motion to stay the motion for summary judgment in order to file a second post-conviction relief application. On January 11, 2006, in her Report and Recommendation, Magistrate Judge Bruce H. Hendricks recommended granting the Respondents' motions for summary judgment, denying Ray's motion for summary judgment, and denying Ray's motion to stay. Ray filed a motion for an extension of time in which to file objections on January 30, 2006. The court allowed Ray fifteen (15) additional days to object to the Report and Recommendation. On February 15, 2006, Ray filed a motion to voluntarily dismiss his petition pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. The Government filed a response in opposition to Ray's motion to voluntarily dismiss on February 16, 2006.

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Ray failed to file any objections to the Report and Recommendation. Therefore, after a thorough review of the Magistrate Judge's Report and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation.

It is therefore

ORDERED that the Respondents' motion for summary judgment, document number 7, is granted. It is further

ORDERED that Ray's motion for summary judgment, document number 11, is denied. It is further

ORDERED that Ray's motion to stay his motion for summary judgment, document number 15, is denied. It is further

ORDERED that Ray's motion to voluntarily dismiss his petition pursuant to Rule 41(a)(1), document number 22, is dismissed as moot.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
February 27, 2006

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.